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EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
 WESTERN DIVISION

3 UNITED STATES OF AMERICA,) Docket No. 09 CR 50031
)
4 Plaintiff,) Rockford, Illinois
)
5 v.) Wednesday, July 1, 2009
)
6 DANIEL MAHON,) 11:15 o'clock a.m.
)
7 Defendant.)

8 TRANSCRIPT OF PROCEEDINGS
9 BEFORE THE HONORABLE P. MICHAEL MAHONEY

10 APPEARANCES:

11 For the Government: HON. PATRICK J. FITZGERALD
 United States Attorney
12 (308 West State Street,
 Rockford, IL 61101) by
13 MR. JOHN G. MCKENZIE
 Assistant U.S. Attorney

14 For the Defendant: MR. DENNIS J. RYAN
 (4414 West Regent,
15 Madison, WI 53705)

16 Also Present: MR. TRISTAN MORELAND
 Special Agent, ATF

17 Court Reporter: Mary T. Lindbloom
18 211 South Court Street
 Rockford, Illinois 61101
19 (815) 987-4486

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1 THE COURT: All right, counsels. We're going to take
2 up at this time 09 CR 50031, United States of America v. Daniel
3 Mahon. I would ask all counsel, starting with counsel on behalf
4 of the United States, to please identify themselves for the
5 court record.

6 MR. MC KENZIE: John McKenzie on behalf of the United
7 States, your Honor.

8 THE COURT: Good morning, counsel.

9 MR. MC KENZIE: Good morning, your Honor.

10 MR. RYAN: Good morning, your Honor, counsel, agent.
11 I'm Attorney Dennis Ryan. I appear here with the defendant
12 Daniel Mahon.

13 THE COURT: Counsels, this matter is set for two
14 matters. One is the identity hearing in regard to the
15 indictment and warrant which has been issued by the District
16 Court in Arizona, and two is the detention hearing or bond
17 hearing in regard to the defendant. The court will take the
18 identity hearing first. United States ready to proceed?

19 MR. MC KENZIE: Your Honor, we are; although, my
20 understanding is that defense counsel will be agreeing and
21 stipulating to identity.

22 THE COURT: Counsel?

23 MR. RYAN: That is true, sir.

24 THE COURT: All right. The court finds at this time
25 that the defendant that appears in front of the court is, in

1 fact, the person named in the indictment and the person named in
2 the warrant.

3 In regard to detention in regard to Daniel, I would ask
4 if counsel's had an opportunity to go over the pretrial service
5 officer's report with your client and if there are any factual
6 corrections at this time.

7 MR. RYAN: On behalf of the defense, we have reviewed
8 it together. We have no substantive factual corrections to
9 offer.

10 THE COURT: All right. Let me tell you what I've
11 written down before I give you ample time to do whatever proffer
12 or testimony that you want to. Daniel's been in this area
13 21 months. He has family in the area. He has a mother who has
14 particular needs that he's been taking care of, a father who's
15 88 years old that he's been helping. He has assets which would
16 be available to post as bond and no previous arrest and no
17 criminal record.

18 On the side of detention, he's unemployed; although, I
19 think that's balanced out by the SSI, to tell you the truth. He
20 has few assets.

21 In my opinion, counsel, subject to argument of
22 counsels, there has been a presumption triggered by the
23 indictment that's been returned. What's the position of defense
24 counsel in regard to that?

25 MR. RYAN: We would move for release, sir.

1 THE COURT: Okay. Do you agree that the presumption's
2 been triggered?

3 MR. RYAN: Yes.

4 THE COURT: All right. With the 844(i), I believe the
5 presumption's been triggered. Is that the position of the
6 United States?

7 MR. MC KENZIE: That's correct, your Honor. We believe
8 that.

9 THE COURT: All right. Proffer or testimony on behalf
10 of the United States.

11 MR. MC KENZIE: Thank you, your Honor. Can I have just
12 literally 30 seconds? I'm still going through the pretrial
13 services report.

14 THE COURT: Sorry, counsel. I thought you were ready
15 to go.

16 MR. MC KENZIE: Thank you, your Honor.

17 (Brief pause.)

18 MR. MC KENZIE: Your Honor, I previously provided
19 defense counsel with copies of what would be our detention
20 exhibits 1 through 20. I'm going to also refer to the affidavit
21 in support of application for search warrant filed in 09 M 0007,
22 which we'll also be referring to and adopting. I've provided
23 defense counsel with a copy of that, as well.

24 Your Honor, may I approach and provide the court with a
25 copy of my exhibits?

1 THE COURT: Yes, you may, counsel. Defense counsel
2 have a copy?

3 MR. RYAN: I've just received one, sir, yes.

4 THE COURT: All right.

5 MR. MC KENZIE: And, your Honor, does the court wish to
6 have a copy of the search warrant affidavit in support of its
7 application?

8 THE COURT: I'm going to need one, counsel, because I
9 didn't bring one up. I understand there's one in the court
10 file, but if you have one, I'll take one.

11 MR. MC KENZIE: I have an extra one.

12 THE COURT: Because I assume you're going to refer to
13 it.

14 MR. MC KENZIE: Briefly, your Honor. And for the
15 record, I'd be handing the court copies of Government's Exhibits
16 Detention 1 through 20.

17 THE COURT: Okay.

18 MR. MC KENZIE: And a copy of the application and
19 affidavit for search warrant.

20 THE COURT: Thank you, counsel.

21 MR. MC KENZIE: Thank you, your Honor.

22 THE COURT: Counsel, you may proceed.

23 MR. MC KENZIE: Thank you, Judge.

24 First of all, your Honor, the United States proceeds by
25 proffer. This would be the information supplied by Tristan

1 Moreland, special agent with the Bureau of Alcohol, Tobacco,
2 Firearms & Explosives, commonly referred to as ATF.

3 The United States first adopts for its proffer all of
4 the allegations set forth in the affidavit in support of the
5 application for search warrant. That affidavit was signed by
6 Tristan Moreland. It also includes reference and adoption of a
7 secondary affidavit, that being an affidavit of John Richardson,
8 Attachment C to the affidavit of Tristan Moreland. We adopt
9 that, as well, as part of our proffer.

10 Your Honor, I would like to advise the court of several
11 devices and materials that were found inside the defendant's
12 premises pursuant to this search warrant that was executed.
13 First of all, your Honor, as shown by Government's Exhibit
14 Number 10 -- it's a photograph. It's a photograph of a plastic
15 bag containing what are improvised explosive devices, and I'll
16 refer to those as IEDs, two of them. These were found in the
17 bedroom of the residence believed to be Dennis Mahon's
18 residence -- pardon me -- bedroom.

19 Each of these devices consist of what are called M
20 devices, and that's usually a reference to either an M-80, an
21 M-100, an M-60. It's a common firearm. They have not
22 determined the exact type of M device used in this. These
23 M-80s, I'll refer to them as, taped together and also have
24 affixed to them large steel bearings. The bearings are used to
25 increase the lethal nature of an IED. There was a discussion by

1 Dennis Mahon to use the IEDs by throwing them into an
2 immigration rally.

3 THE COURT: When was that discussion, counsel? Do you
4 have a date for me?

5 MR. MC KENZIE: I'll supply that in just a moment, your
6 Honor.

7 THE COURT: Okay.

8 MR. MC KENZIE: I'll come back to that on that.

9 THE COURT: Didn't mean to interrupt.

10 MR. MC KENZIE: No, your Honor.

11 In addition, there were also bomb-making materials and
12 instructions within the residence. As reflected in Government's
13 Exhibit Number 20, this is a printout from the Internet. It's
14 dated on the lower right-hand corner as April 15th, 2009, and
15 that would normally be the access date of Internet. So, as of
16 at least only months ago, there was an access to an Internet and
17 a printout by the defendants of these materials.

18 These were only some of the materials. They include
19 how to avoid being successfully investigated, such as hiding
20 fingerprints, avoiding your DNA, how to conduct assassinations,
21 how to manufacture various types of explosives, including
22 homemade C4 and potassium chlorate, how to make mail bombs and
23 pipe bombs, how to obtain and use long range timers to use as
24 fuses for bombs.

25 In addition, within the premises or the scope of the

1 search warrant, there was found what's called an Anarchist
2 Cookbook. This also discusses how to make IEDs, fuses, booby
3 traps, weapons. There was further another book on making booby
4 traps that was found.

5 Within the residence and outbuildings, there was a
6 number of firearms that were found. First, as reflected in
7 Government's Exhibit 5, there was a Ruger Mini 14 .223 caliber
8 semiautomatic assault rifle in a bedroom that is believed to be
9 by the United States, based upon information throughout the
10 investigation and during the search, the bedroom of this
11 defendant, Daniel Mahon.

12 In one of the outbuildings, as reflected in
13 Government's Exhibit Number 1, there were 20 rounds of
14 .223 caliber marked ammo piercing -- I'm sorry -- armor
15 piercing. Your Honor, under Illinois law possession of that
16 would be a Class 3 felony.

17 As reflected in Government's Exhibit 4, there was a
18 nine millimeter pistol and four loaded magazines found in a car.
19 This was found in the trunk of a white Malibu. According to
20 information received from the ATF, that Malibu is registered to
21 this defendant.

22 There was also, as reflected in Government's Exhibit 6,
23 a semiautomatic pistol on a bed stand in the bedroom.
24 Government's Exhibits 7 and 8 show two shotguns found in the
25 bedroom. Also recovered from the search was a .357 magnum

1 revolver, two rifles, a .45 caliber pistol, two .25 caliber
2 semiautomatic pistols. I'll reference the court to Government's
3 Exhibit Number 14, which shows one of the pistols, along with, I
4 believe, three additional loaded magazines for them.

5 In addition, in Government's Exhibit Number 9 there is
6 what is referred to as an assault rifle, often referred to as an
7 AK-47 style or an AK Sportster assault rifle with two loaded
8 magazines found on the downstairs dining room table.

9 Government's Exhibits 11 and 15 show extra clips for this
10 assault rifle that were located in Dennis Mahon's room. This
11 assault rifle was the same as observed in February of 2009 by an
12 undercover ATF special agent -- that would be Special Agent
13 Moreland -- in Dennis' room. It appears to have been brought
14 downstairs and immediately accessible from the entrance that was
15 used by the sheriff when they approached the Mahons on the day
16 of the search and their arrest.

17 Government's Exhibit 13 also discloses numerous other
18 rounds of ammunition. Government's Exhibit 12 has a rifle with
19 scope that was found in Dennis' bedroom. Government's
20 Exhibits 16 and 18 are additional photographs of the shotguns
21 that were found. In addition, Government's Exhibits 1, 2, and 3
22 reflect several ballistic or bulletproof vests that were found
23 both in the house and one outbuilding.

24 Found within the house, as reflected in Government's
25 Exhibit 1, was -- or pardon me -- within the premises was a

1 White Aryan Resistance, also known as WAR, materials in a
2 three-ring binder, a VHS tape marked CNBC with Tom Metzger.
3 Metzger is the self-reported founder of WAR, describes himself
4 as a white racial separatist. Also a National Socialist
5 Bulletin, along with a Nazi armband.

6 Government's Exhibit 19 was found inside the residence.
7 It reflects that Dennis Mahon, the brother, is a former imperial
8 dragon. The letter is addressed To Whom It May Concern, and
9 it's dated just two days after the bombing. In this letter he
10 states that he was a former leader of the White Knights of the
11 Ku Klux Klan. He also describes his brother as being his
12 bodyguard and as being a paid videotaper and also providing
13 small amounts of money.

14 Also within the house is Government's Exhibit 17, which
15 is DVDs including WAR and white supremacist groups' meetings
16 called Hammerfest. Special Agent Moreland would testify that
17 Hammerfest is a common meeting or an annual meeting of various
18 organizations within kind of the overall umbrella of the white
19 supremacist movement.

20 Also found were other VHS tapes on Aryan Fest, an
21 Inside Edition on Klan recruiting, photographic albums showing
22 various Aryan Fests in the 1980s, a three-ring binder of the
23 National Socialist Brotherhood with a stated purpose therein of
24 destroying the Jewish World Order.

25 There were newspaper clippings on the 9/11 bombing of

1 the World Trade Center and a newspaper photo of Osama Bin Laden
2 with handwriting below it that states, "Our Hero."

3 Your Honor, at 6:00 o'clock in the morning on the day
4 of their arrest, Ogle County Sheriff's Department approached the
5 door to the premises. One of the lieutenants took the lead.
6 Several other deputies fanned out. The lieutenant went to the
7 door and knocked for awhile. Finally, Dennis Mahon came to the
8 door. Dennis Mahon stated he was not coming out unless there
9 was a warrant. The lieutenant advised him that there were
10 warrants. Dennis Mahon said that he was going to have to talk
11 to his brother.

12 At that point or shortly thereafter, a shade on a
13 second floor window went up, and the deputies were removed to a
14 safer area. The lieutenant then began trying to contact Dennis
15 Mahon by calling his cell phones. For awhile there was no
16 answer. During this time delay and at approximately 6:19 a.m.,
17 Dennis Mahon calls an individual and left a message on that
18 individual's answering machine. The message stated that the
19 cops were there to arrest them, and he was thinking of shooting
20 it out or shooting them.

21 The lieutenant used a different cell phone to dial the
22 defendants so that the caller ID would show a different number
23 was coming in. Defendant Dennis Mahon answered the phone and
24 agreed to surrender. At approximately 6:45 the defendants came
25 out of their residence. They were placed in a transport vehicle

1 at that time without incident.

2 While in the transport vehicles, the defendants
3 discussed between themselves and without the presence of law
4 enforcement officers getting rid of the explosive powder. They
5 described it as a good thing that they got rid of it. One
6 defendant stated, "We should have had a shootout." The
7 defendant agreed. One stated that had a different vehicle shown
8 up there that day, there would have been a firefight. One of
9 the defendants stated, "I wanted to have a shootout here."

10 During this time there was a discussion of flight.
11 Daniel, this defendant, stated, "I knew this was going to come."
12 His brother Dennis stated, "I thought it would come a long time
13 ago." This defendant, Daniel, stated, "After the DNA thing,
14 maybe it's a good time to -- of course, they would have found
15 us, anyway."

16 I would report to the court as part of my proffer after
17 the DNA search warrant on May of 2008 for the DNA samples for
18 Dennis and Daniel Mahon, these two discussed taking off to a
19 retreat, a reference to a property located in Missouri. Prior
20 to the discussion in the car, Special Agent Moreland had
21 informed Daniel Mahon that the Missouri property was being
22 raided at that very moment.

23 As far as a discussion of guilt, they both discussed
24 that when the bombing took place -- they both discussed when the
25 bombing took place and stated that they could no longer be

1 prosecuted as the statute of limitations had expired. In
2 another conversation, part of the conversation, Dennis said, "I
3 never told her," referring to an individual cooperating with the
4 government, "what I really did." Daniel Mahon said, "I never
5 told her anything." Dennis Mahon said, "I kept telling her that
6 the cops did this to a guy." In reference to DNA being found on
7 the bomb, Dennis Mahon stated, "I'm not stupid enough to do
8 something like that." Daniel then replied, "There's no way they
9 got our DNA on that thing. There's no way."

10 As far as the continued conversation about shooting it
11 out with the ATF, at approximately 9:00 a.m. Special Agent
12 Moreland brought Dennis out in front of the house. There they
13 discussed procedurally what was going to happen later that day
14 as far as appearing before a court. Special Agent Moreland
15 stated, "I want to thank you for not shooting it out." Dennis
16 Mahon said, "I came real close. Had they hit me at 3:00 a.m.,
17 there would have been a lot of body bags." Dennis then
18 discussed how it was good that the ATF had used the Ogle County
19 Sheriff's Office rather than the ATF to approach.

20 As far as discussion of retaliation, there was a
21 discussion between Dennis or Daniel that Tom Metzger had stated
22 for them to plead not guilty and to bring the swine in to make
23 them pay. The United States would believe that this is a
24 reference to attempting to expose informants who had been
25 cooperating against them, that there is a common thread in the

1 white supremacist organization to identify traitors -- as they
2 put it, racial traitors or traitors to the white race.

3 During a recorded conversation on January 5th, 2009 --
4 and this is set forth more fully in the affidavit in support of
5 the search warrant -- there was a discussion about the May 2008
6 DNA search warrant in which Dennis stated, "If you're going to
7 come after, then come after me, uh, because I've got my AK-47,
8 and I'm not going to rot in jail, and neither is Dan. But so
9 far it's been four months now, and it seems to me they would
10 have arrested us by now."

11 January 29th, 2005, in a conversation between Daniel
12 and the CI -- pardon me -- the confidential informant or CI,
13 when the informant asked if they did more than just talk about
14 taking action for their cause, referring to the white
15 supremacist beliefs, this defendant, Daniel, said, "We do more
16 than just talk about it. If I knew you better and the statute
17 of limitations was up."

18 Daniel Mahon then talked about his participation in
19 drive-by shootings, blowing up cars and buildings. He said,
20 "Dennis did not do much of that stuff. We thought we were doing
21 the right thing. We were just trying to send a message."
22 Daniel stated, "When I would take someone's car out, it wasn't
23 anger. It was a sense of duty. It was like a military
24 operation. You plan for it, equip for it."

25 On May 3rd, 2006, during a conversation regarding --

1 excuse me, your Honor.

2 (Brief pause.)

3 MR. MC KENZIE: (Continuing) -- a conversation with an
4 individual cooperating, Dennis Mahon stated, "I just wanted,
5 just wanted to teach the" -- pardon my language, your Honor --
6 "the motherfucker a lesson the first time."

7 In another recorded conversation during May 2007 on the
8 same subject of the February 2004 bombing, Dennis Mahon stated,
9 "I didn't plant the bomb. I helped make it."

10 In January 2008 Dennis Mahon took a person who was
11 cooperating to one of the several outbuildings located on the
12 residence. At that time he indicated that particular building
13 was a location where the Mahons had used to make bombs.

14 On February 7th, 2009, Special Agent Moreland was with
15 Dennis Mahon and others. Upon approaching the same building,
16 Dennis Mahon again said, "This is where I make my bombs." He
17 then pointed to the side of the barn and jokingly said, "This is
18 where I keep my warheads."

19 Mahon then became serious and stated, "I had to get rid
20 of some of my powder," which Special Agent Tristan believes was
21 a reference to the explosive gunpowder, "because the cops came
22 here. Dan was working on his car here. They had a warrant for
23 a swab." Special Agent Tristan believes that this is a
24 reference to a search warrant for Daniel Mahon's DNA in May
25 2008.

1 Dennis Mahon also stated they had four cans of black
2 powder here and his BBs. I would note to the court that
3 although they -- after the conversation in the back of the car
4 while awaiting transport they indicated they had gotten rid of
5 the powder, no powder was found in cans or in BBs inside this
6 particular outbuilding.

7 I would also state, your Honor, on March 29th, 2009,
8 Dennis left a message on a telephone answering machine or a
9 voice mail of an individual cooperating regarding their future
10 intentions. He stated as follows. "We're taking care of mom
11 here, and I'm mailing out my propaganda, and, uh, once mom
12 passes away and we go -- and I go back to my radical
13 bomb-throwing, sniper-shooting realm. But until mom passes
14 away, I really can't do much. But when she does, look out ZOG,"
15 which is reference to a Zionist occupation government, your
16 Honor. "Look out because I've got nothing to lose,
17 motherfuckers. I will shut the country down on electrical
18 power. Yeah, I know how to do it. I got the weaponry, I got
19 the high-powered rifles to shoot down the high power tower power
20 accelerators. So, my friends, yes, yes, unintelligible, America
21 turn the lights out, but maybe not me, but my friends do that,
22 so -- but I can't do that, not while mother's alive. I should
23 take care, the Aryan thing to do, honey, take care of my mother
24 and father, but they pass away, look out. Here I come, my
25 friend. We'll, unintelligible, America out of power, and then

1 we will deal with our enemies, unintelligible, and their bro's,
2 unintelligible, and whites, yes, and nonwhites, unintelligible,
3 and nonwhites shall destroy each other as, unintelligible,
4 liberal, stupid, weak whites. Take care. Remember. Learn,
5 learn, get high power weaponry to take out the high power
6 towers. Take out electrical power. Understand that. There's
7 explosives, high powered rifles, shoot at the insulators. We
8 need to do this when the time comes. Time is coming this way
9 close. Take care, darling. Remember the electrical power grid
10 is the Achilles heel of America. So, unintelligible, white
11 proud, white people can't handle it. Shut it down,
12 unintelligible, the power grid, unintelligible, power grid.
13 High powered weaponry, explosives, no problem. Got that? Keep
14 up the good work. Bye."

15 Thank you, your Honor. That concludes the proffer.

16 THE COURT: Any further proffer or testimony on behalf
17 of the United States?

18 MR. MC KENZIE: No, your Honor.

19 THE COURT: Proffer or testimony on behalf of the
20 defendant?

21 MR. RYAN: I want to ask for an adjournment of this,
22 and I'll tell you why, Judge. I appreciate the courtesy of
23 getting these materials. It would have been --

24 THE COURT: Just tell me why, counsel.

25 MR. RYAN: I want to read this stuff.

1 THE COURT: Okay.

2 MR. RYAN: I came in here thinking we would just deal
3 with the criminal complaint.

4 THE COURT: Slow down. How much time do you want?

5 MR. RYAN: I need an hour.

6 THE COURT: What about if we reconvene at 2:30? That
7 would be after my 1:30 call.

8 MR. RYAN: That would be fine.

9 THE COURT: Does that fit for the United States?

10 MR. MC KENZIE: I'm sorry, your Honor?

11 THE COURT: Counsel's asked for time to go over the
12 material. Particularly he's going to want some time to go over
13 the affidavit in connection with the search warrant, which I
14 know is substantial, particularly if you bring in the other
15 affidavit which you have. I've suggested to counsel that we
16 reconvene this matter at 2:30 this afternoon after my 1:30 call.

17 MR. MC KENZIE: That would be fine for the United
18 States.

19 THE COURT: All right.

20 MR. MC KENZIE: Your Honor, the court had a question
21 about when the conversation was.

22 THE COURT: Yes, I did.

23 MR. MC KENZIE: It was in 2007 and possibly in 2008.

24 THE COURT: And --

25 MR. MC KENZIE: That was in reference to throwing

1 the --

2 THE COURT: No, no. I remember what it was in
3 reference to, but where did the -- was it a conversation with
4 the CI?

5 MR. MC KENZIE: Your Honor, I'll bring that at 2:30
6 then.

7 THE COURT: Okay. Counsel, I'm going to continue the
8 matter 'til 2:30. I'll check with the United States on the one
9 matter and get an update as far as where we stand in regard to
10 the question the court has.

11 MR. RYAN: Very good.

12 THE COURT: It will give you time to go over that
13 material with your client, and then at that point in time I'll
14 take a proffer or testimony on behalf of defense counsel in
15 regard to this matter.

16 MR. RYAN: Thank you, sir.

17 THE COURT: Court will stand adjourned.

18 (Whereupon, the within hearing was recessed to 2:30 o'clock
19 p.m. of the same day.)
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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
 WESTERN DIVISION

3 UNITED STATES OF AMERICA,) Docket No. 09 CR 50031
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4 Plaintiff,) Rockford, Illinois
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5 v.) Wednesday, July 1, 2009
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6 DANIEL MAHON,) 2:30 o'clock p.m.
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7 Defendant.)

8 TRANSCRIPT OF PROCEEDINGS
9 BEFORE THE HONORABLE P. MICHAEL MAHONEY

10 APPEARANCES:

11 For the Government: HON. PATRICK J. FITZGERALD
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13 MR. JOHN G. MCKENZIE
 Assistant U.S. Attorney

14 For the Defendant: MR. DENNIS J. RYAN
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15 Madison, WI 53705)

16 Also Present: MR. TRISTAN MORELAND
 Special Agent, ATF

17 Court Reporter: Mary T. Lindbloom
18 211 South Court Street
 Rockford, Illinois 61101
19 (815) 987-4486

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1 THE COURT: All right, counsels. Back on record.
2 09 CR 50031, United States of America v. Daniel Mahon. I would
3 ask counsels again to please identify themselves briefly,
4 starting with the United States.

5 MR. MC KENZIE: John McKenzie for the United States,
6 your Honor.

7 MR. RYAN: Good afternoon, your Honor, counsel, agent.
8 I'm Attorney Dennis Ryan. I appear with Daniel Mahon,
9 M-a-h-o-n.

10 THE COURT: All right. First I'll turn to the United
11 States. I asked for some clarifications about some statements.
12 I didn't know if at this point in time if, in fact, the United
13 States had any clarifications.

14 MR. MC KENZIE: We have, your Honor. To supplement our
15 previous proffer, I would state the following. The court had
16 asked about my statement of a discussion by Dennis Mahon to use
17 IEDs by throwing them into an immigration rally. The United
18 States would proffer as follows.

19 On May 1st, 2007, Dennis Mahon advised an individual
20 cooperating with the government to tell Charles Kuntze that this
21 individual had stopped Mahon from going to an immigration rally
22 and throwing a bomb into the crowd. Charles Kuntze is an
23 associate of the Mahons who has provided them with financial
24 assistance in the past because -- for the reason that Dennis
25 Mahon has committed terrorist acts on behalf of white

1 supremacist movements.

2 On the same day, May 1st, 2007, Dennis Mahon told an
3 undercover agent that Dennis Mahon was going to go to the
4 immigration rally, toss a few grenades, and then open up on
5 them. The agent interpreted open up as opening fire, firing
6 upon them with a gun. But that the big boss, a reference the
7 agent believes is to Metzger, told Dennis Mahon not to do it
8 because a few people would feel sorry for the victims of the
9 incidents.

10 On April 5th, 2008, Metzger asked if Dennis Mahon was
11 ready for the May 1st, 2008, marches by Hispanics in connection
12 with Cinco de Mayo and stated that there is always "hope with a
13 scope," a common reference by white supremacists. Dennis Mahon
14 replied that "You wouldn't need that. You would only need to
15 get on a building and drop a few M-80s down there." The agent
16 would testify that the IEDs found in Dennis Mahon's bedroom are
17 the functional homemade -- are functionally equivalent to
18 homemade hand grenades.

19 THE COURT: All right. Thank you, counsel. I assume
20 that concludes now the proffer and any testimony the United
21 States desires to offer in regard to the detention hearing.

22 MR. MC KENZIE: It does.

23 THE COURT: Counsel on behalf of the defendant, do you
24 desire to make a proffer at this time or offer any testimony?

25 MR. RYAN: Desire to make a proffer, sir.

1 THE COURT: Go ahead.

2 MR. RYAN: Thank you, Judge. I am grateful for the
3 opportunity of being able to review the affidavits tendered by
4 the government. It was important that I read them, and once I
5 got through them, I realized how important it was.

6 The main crux of the danger component, danger to the
7 public, by the government's case is contained in both of these
8 affidavits. I don't know if the court has a copy, if it was
9 given.

10 Essentially, we have a confidential informant, a
11 confidential informant who is paid by the government to, in the
12 affidavit's opening paragraph, paragraph six on Page 4, which
13 introduces the CI, to elicit statements from Daniel Mahon and
14 Dennis. I will try and restrict my comments to Daniel because
15 I'm his lawyer, not Dennis'.

16 Whatever statements were made by Daniel that I see were
17 in direct response to leading questions presented by the CI.

18 THE COURT: Counsel, I understand that if you want to
19 make argument, and I may give you a chance to do that.

20 MR. RYAN: Okay.

21 THE COURT: But move on and get to your proffer.

22 MR. RYAN: Thank you.

23 Our basic proffer is that Daniel does not present a
24 risk of harm. We find nothing on the record and certainly
25 nothing in his that presents a danger to the public, even though

1 he has only been back here --

2 THE COURT: 21 months.

3 MR. RYAN: Yes.

4 THE COURT: Then I'll ask you, counsel, if you want. I
5 have two troubling areas.

6 MR. RYAN: Sure.

7 THE COURT: One is the material that was found at the
8 residence. And you can sit down.

9 MR. RYAN: All right. Thanks.

10 THE COURT: One is the material that was found at the
11 residence where my understanding is your client resides and,
12 two, various statements that the defendant has made. That along
13 with the triggering of the presumption are the three things you
14 have to overcome. But, counsel, one, I'll let you argue these
15 things, but do you have any proffer or evidence you want to
16 present?

17 MR. RYAN: No, no. Just argument, sir. Thank you.

18 THE COURT: All right. Let's go into the argument.
19 How do I get around the material? Let's assume for a second
20 that we can set aside the issue of the appearance of your
21 client. It seems to me that with his connection with his
22 parents at this time and probably some type of monetary amount
23 being put up by the father, it's hard for to me imagine that
24 Daniel would not be available, as things are concerned. So, the
25 main component here is safety of the community. How do you get

1 around the material that was found at the residence and the
2 various statements that your client made?

3 MR. RYAN: It's better if I stand. Is that all right?

4 THE COURT: If it makes you comfortable, counsel.

5 MR. RYAN: It does. It does.

6 To get to their house, you go down Route 72. Either
7 side, farms. To get to the Ogle County Jail, I take 72 to 2.
8 Either side are farms. I would wager that you go into any
9 farmhouse where young men, husbands, sons are residing, you will
10 find weapons, period.

11 THE COURT: Armor piercing weapons? Armor piercing
12 material?

13 MR. RYAN: I don't know how old those were. At one
14 point those were legal. I don't know how they got there, and I
15 don't even know if they're Daniel's.

16 The weapons and anything attached to that have now been
17 surrendered, I'm assuming, taken into custody by the government.
18 What is certainly troubling are the statements that he's made,
19 but those are statements. What makes them more than troubling
20 are the affiliation that he has with his brother with the WAR
21 movement. How deep that is, how sincere that is, how much of
22 those statements were just drunken prattle by a couple of beyond
23 middle aged men who have nothing better to do than to build
24 model airplanes and talk about minorities, I don't know. You
25 coalesce and combine all of that together with the notoriety,

1 especially, that Dennis has, it makes a tough call. But the
2 reality is this offense is something that happened five years
3 ago almost.

4 THE COURT: I'm not judging your client on the offense.

5 MR. RYAN: I know, Judge, but I'm just trying --

6 THE COURT: And I wouldn't do that. He's presumed
7 innocent of the indictment. The statute says I'm to presume him
8 innocent, and I do presume him innocent.

9 MR. RYAN: Yes.

10 THE COURT: That's what the law is. I follow the law.

11 MR. RYAN: Right.

12 THE COURT: But, counsel, that's not the issue. It's
13 whether or not I can assure the safety of the community, or,
14 more appropriately, has the government demonstrated by clear and
15 convincing evidence that no conditions or combinations of
16 conditions will reasonably assure the safety of the community.

17 MR. RYAN: I don't believe they have. I believe --

18 THE COURT: Why not?

19 MR. RYAN: We have no criminal history here at all. We
20 have hateful dialogue. We have a reputation for that. We have
21 him and his brother as suspects. What else is there? If he was
22 so dangerous, how do we explain the absence of verifiable acts?
23 How do we explain, as smudged morally as it may be, the clean
24 slate that he has? He's my age. He's 59. I have more of a
25 record than this guy does. If that danger was truly something

1 akin to the powder keg that's being presented here, we would
2 have seen other things.

3 Is it helpful that weapons were there? No. I don't
4 think it should be determinative. I think we are living in an
5 age of talk and dialogue by many people. He is capable, I
6 believe, of staying at his father's house, building his model
7 airplanes, not having access to a computer, and going forward
8 through the process of this case. I don't see how the elements
9 that you are concerned about override what has been recommended
10 by pretrial services. I just don't. That's all, sir.

11 THE COURT: Thank you, counsel. Argument on behalf of
12 the United States.

13 MR. MC KENZIE: Yes, your Honor. Thank you.

14 Your Honor, the court focuses upon whether the crux of
15 it is is there some sort of combination of conditions that will
16 prevent him from being a danger to the community, and it's
17 pretty clear that he represents as he sits there today a danger
18 to the community.

19 He has espoused groups that are white supremacist that
20 go and support bombings, support acts of violence against
21 others. He has associated closely with his brother, who has
22 espoused bombings, espoused acts of violence against minorities.

23 He has admitted to one individual that they do more
24 than just talk about it, as he said, and that although he didn't
25 know this individual well enough and the statute of limitations

1 wasn't up, for those reasons he couldn't talk further about it.
2 But then he went on and said: Look. We do those things. I was
3 involved in sending a message. I was trying to do the right
4 thing. When I took out somebody's car, it wasn't out of anger.
5 It was out of his duty, out of a warped, misguided duty toward
6 this white separatist movement.

7 So, he's clearly a danger. He talks about -- after the
8 offense, he talks about getting rid of the evidence, trying to
9 dispose of things. Did we get rid of things. Let's plead not
10 guilty. Let's go to trial and make sure we get the informant,
11 the swine that was referred to, out in the open. Again, an
12 element of danger and risk that comes with any trial any time
13 you have an informant working with you.

14 He also talks with his brother, and they agree that
15 they should have had a shootout. They shouldn't have gone down
16 quietly when the Ogle County deputies came for them. They
17 should have at that point pulled out the guns and started
18 blazing, and, as his brother said, there would have been body
19 bags had it come out differently. Those are facts. That's what
20 he said. That's what they intended to do. That's what they
21 contemplated doing. In fact, his brother even while they were
22 there inside the house called the individual and said: Look.
23 The police are out here to get me. I might just start shooting
24 them.

25 All of those features point to somebody that's

1 dangerous. How do you keep a person like that from -- how do
2 you fashion conditions to combat that? When you have a white
3 separatist organization like this, when you have access to the
4 Internet, when you have access to the phone, when you have a
5 secluded farm or a secluded area that really anyone can come and
6 visit and go, it's almost impossible to. It's almost impossible
7 to stop this person. We don't know what else is secreted in
8 that farm, what else could be with their friends, with their
9 associates, with their allies.

10 Certainly they're not the only members of white
11 supremacist organizations. White supremacy organizations cover
12 the United States. The fact is the Aryan Nation is a violent
13 organization. The people they deal with and associate with are
14 violent people. We don't know how far that organization with
15 them, but it certainly is a risk as far as the court trying to
16 fashion a condition or combination of conditions on how to keep
17 this individual from being a risk.

18 I might disagree with the court whether the court can
19 fashion conditions to assure their appearance, but it sounds as
20 though the court is really not looking at that. It's really
21 focusing upon the danger to the community. The United States
22 believes that they're dangers to the community for all the
23 reasons set forth in the United States proffer and for the
24 reasons set forth in the affidavit in support of the search
25 warrant.

1 It may be talk, as defense counsel wants to put it.
2 There's no evidence this is a drunken prattle. There's only
3 evidence that there is clear-cut planning and discussion of
4 violent acts in the future, violent acts in the past, and the
5 ability to commit violent acts now. Thank you.

6 THE COURT: No proposal's been made by the defendant of
7 a third-party custodian; is that correct, counsel?

8 MR. RYAN: No, sir.

9 THE COURT: All right. A little bit of the ground
10 rules. Burden's on the United States. The United States must
11 show, first of all, by a preponderance of the evidence in regard
12 to flight that no conditions or combinations of conditions will
13 reasonably assure the presence of the defendant.

14 As to safety, the evidentiary level is, as the court
15 said, clear and convincing. The government must show by clear
16 and convincing evidence that no conditions or combinations of
17 conditions will reasonably assure the safety of an individual or
18 the safety of the community in general.

19 Mr. Mahon I think would show up. I think I could
20 fashion conditions for that. The challenge to the court in
21 regard to Daniel is whether or not there are conditions that
22 would reasonably assure the safety of the community. And not to
23 transfer the burden to you, counsel. I understand the burden is
24 on the government to show that there are none.

25 Daniel's never been arrested. He's taking care of his

1 parents. He doesn't have a criminal record. He's on SSI. So,
2 I can't hold unemployment against him. He's given enough
3 evidence to overcome the presumption; although, the fact that
4 the presumption was triggered is considered by the court
5 pursuant to Seventh Circuit case law.

6 However, the court finds as to Daniel there are
7 conditions or combinations of conditions that will reasonably
8 assure the presence of this defendant and the safety of the
9 community. They're going to be a little bit different than
10 those proposed by the pretrial service officer. Part of this is
11 because of the relationship that's been demonstrated by Daniel
12 to his parents.

13 My understanding is the father, who is 88 years old,
14 currently has available an amount equal to almost six figures.
15 I'm not going to take all of that, but I am going to direct at
16 this time that the bond in this case is a cash bond. It's my
17 understanding that, in fact, the father is willing to put up a
18 cash bond, counsel, in order to help out his son in order that
19 his son can reside with him and help take care of the mother.
20 I'm going to direct that the father put up a \$50,000 cash bond.
21 That means -- and the father, I believe, is in the audience, is
22 he not?

23 MR. RYAN: Yes, sir.

24 THE COURT: That means, sir, if, in fact, Daniel
25 doesn't do the things and conditions that I place upon him, you

1 could lose and I suspect would lose all of that \$50,000. Okay?

2 MR. MAHON: Yes, sir.

3 THE COURT: Okay. And, Daniel, I want you to
4 understand that, too. The government will take that money from
5 your dad.

6 DEFENDANT MAHON: I understand.

7 THE COURT: Okay. You're to report to the pretrial
8 service officer as directed by the pretrial service officer
9 either in the Northern District of Illinois or District of
10 Arizona. You're to reside with your father, and you're to take
11 care of your parents during this period of time. Travel is
12 restricted to the Northern District of Illinois and the District
13 of Arizona, and you're allowed to travel on a direct path to and
14 from those destinations either to consult with counsel or for
15 court proceedings.

16 The FOID card is to be surrendered to the pretrial
17 service officer. There are to be no weapons, ammunition, or
18 dangerous type of weapons at the residence during this period of
19 time nor are they, Daniel, to be in your possession during this
20 period of time.

21 Any other conditions except the normal conditions being
22 requested by the United States, and do you have a date for the
23 defendant to appear to respond to the outstanding indictment in
24 the District of Arizona?

25 MR. MC KENZIE: I don't have a date from Arizona yet,

1 your Honor.

2 THE COURT: We'll add it to this as we move along,
3 counsel. Okay? It will be part of the bail bond that there
4 will be a date. There will be a requirement of your pretrial
5 release that you appear in the district court in Arizona and
6 respond to the outstanding indictment at that time.

7 The other conditions -- counsel, I'm sorry. Were there
8 any other conditions that's being requested by the United
9 States?

10 MR. MC KENZIE: If I can have just a moment, your
11 Honor.

12 THE COURT: Yes.

13 (Brief pause.)

14 MR. MC KENZIE: Your Honor, in light of the fact that
15 materials were found that had been printed off the Internet as
16 recently as April 15th of this year and in light of the ability
17 of somebody to go out on the Internet again and search out and
18 obtain materials related to terrorist acts, the United States
19 would ask that the Internet service at the home be terminated
20 and that the defendant and his parents not establish Internet or
21 allow Internet service at the home.

22 MR. RYAN: I would be opposed to that, Judge, simply --

23 THE COURT: I'm not, though, counsel. How come? Check
24 with your client again. I think that's a reasonable thing. Why
25 are you opposed?

1 judge because you committed a criminal offense while on pretrial
2 release. What we're trying to emphasize to you today, you
3 violate the conditions of release, your release can be revoked
4 and you can be incarcerated until such time as your trial
5 occurs. Also if you violate these conditions, you may be in
6 contempt of court.

7 Lastly, it's my obligation to inform you it is an
8 offense to intimidate a witness, prospective juror, victim, or
9 court personnel or to retaliate against a witness, victim, or an
10 informant. Now, Mr. Mahon, I'm not saying that you intend to
11 engage in that type of conduct. I am required by the statutes
12 of the United States to give you that admonition at this time.

13 My staff then will prepare the material for the bond.
14 I will sign it. There's a place for you to sign it. It will
15 have all the conditions, and it will have the date when you're
16 supposed to report to the District Court of Arizona. Once that
17 is done and the \$50,000 is deposited, you'll be released from
18 custody.

19 Counsel, check with your client and see if he's got any
20 questions.

21 (Brief pause.)

22 MR. RYAN: No questions, sir.

23 THE COURT: Any questions by the United States?

24 MR. MC KENZIE: Not questions, your Honor. I do have
25 two other matters to raise with the court on bond, though.

1 MR. RYAN: His business is on EBay. He makes model
2 airplanes.

3 THE COURT: Not good enough. There's not a health
4 reason. No Internet for your client.

5 MR. RYAN: That's it?

6 THE COURT: Correct.

7 MR. RYAN: Okay.

8 THE COURT: Anything else?

9 MR. MC KENZIE: No, your Honor. Thank you.

10 THE COURT: Okay. During the time that you're on
11 pretrial release, Mr. Mahon, you must obey all federal, state,
12 and local statutes, you must show up for all the court dates,
13 and you must abide by the travel restrictions that I've placed
14 upon you.

15 If you should fail to appear for a court date, your
16 bail could be revoked and you could be placed in jail until such
17 time as your trial occurred. If you should fail to appear, you
18 may have committed an additional criminal offense because you
19 weren't where you were supposed to be. Lastly, if you fail to
20 appear for a court date, a contempt warrant could issue for your
21 arrest.

22 If you commit a criminal offense while you're out on
23 pretrial release and you're found guilty in the indictment on
24 the underlying charge here, an additional consecutive sentence
25 could be and I suspect would be imposed by the district court

1 THE COURT: Pardon me?

2 MR. MC KENZIE: I do have two other matters to raise
3 with the court on bond when the court's ready.

4 THE COURT: I'm ready.

5 MR. MC KENZIE: First of all, your Honor, the United
6 States would respectfully request a Nebbia hearing for the
7 source of the \$50,000.

8 THE COURT: You're entitled to that under the statute.

9 MR. MC KENZIE: Secondly, your Honor, the United States
10 would ask that the court stay the execution of the bond pending
11 a review by our office of what position to take. We'll have
12 that information certainly by the Nebbia hearing if the Nebbia
13 hearing is held tomorrow.

14 THE COURT: Counsel, when will the \$50,000 be ready?

15 MR. RYAN: Can I ask the father, sir?

16 THE COURT: Yes.

17 (Brief pause.)

18 MR. RYAN: Judge, I don't know if it would be possible
19 to have that hearing now or today. Mr. Mahon, Sr. --

20 THE COURT: Here's what I'm going to do, counsel.

21 MR. RYAN: -- told me he's got the money with him.

22 THE COURT: I'm going to stay the bond. We can hold
23 the Nebbia hearing. I'm going to stay the bond and hold the
24 Nebbia hearing on Monday morning, July 6th. Does that fit for
25 both counsels?

1 MR. MC KENZIE: It does for the United States, your
2 Honor.

3 MR. RYAN: Judge, I've got a homicide hearing up in
4 Madison that morning.

5 THE COURT: Tell me what you mean by hearing.

6 MR. RYAN: Well, actually, it's at 1:00 o'clock.

7 THE COURT: 9:30 on the 6th here?

8 MR. RYAN: Perfect. Perfect.

9 THE COURT: We'll set the Nebbia hearing for July 6th,
10 2009, at 9:30 so that everyone can prepare for that hearing. I
11 will stay the decision of the court to release the defendant on
12 bond until 9:30 in the morning on July 6th. That gives
13 everybody the opportunity to decide what they want to do in
14 regard to this. I'll see you at 9:30. I'll see counsel at 9:30
15 in regard to that case. Anything else?

16 (No response.)

17 THE COURT: Have a great day.

18 (Which were all the proceedings had in the above-entitled
19 cause on the day and date aforesaid.)

20 I certify that the foregoing is a correct transcript from
21 the record of proceedings in the above-entitled matter.

22
23
24

Mary T. Lindbloom
25 Official Court Reporter